IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 13152 of 1993

Between:

1) Aketi Sayanna, S/o. Venkanna, Hindu, Agriculture.
2) Aketi Lakshmana Swamy, S/o. Venkanna, Hindu,
Occ: Agriculture

3) Aketi Surayya, S/o. Venkanna, Hindu ,Occ: Agriculture
4) Aketi Pullamma, W/o. Ganganna, Hindu, Agriculture,
5) Aketi Venkatramayya, S/o. Venkanna, Hindu, Agriculture,
(All are residents of Akkampet, Marla Gudem Post, Jangareddigudem

Mandal, West Godavari District).

... PETITIONERS

AND

1) Government of Andhra Pradesh, rep by its Secretary, Social

Welfare Department, A.P.Secretariat, Hyderabad

2) Agent to Government-Cum-The District Collector, West Godavari

District, Eluru,

3) Special Deputy Collector, Tribal Welfare, Eluru, West Godavari District.
4) Special Deputy Tahsildar, Tribal Welfare, Eluru, West Godavari.
District,

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of certiorari calling for the records relating to Government Memo. No. 393/F1/89-5, Social Welfare Dept, dt. 14-6-1993, and the order of the Special Deputy Collector, Tribal Welfare, Eluru, W.G.Dist in S.R.No. 75/82, dt. 6-5-1986 and the order of the Agent to Government cum District Collector, West Godavari District, Eluru, in S.R.A.No. 19/86, dt. 23-1-1989, and set them aside as arbitrary, improper, unconstitutional and bad in law, and therefore void, illegal and consequently directing the Respondents to reconsider the case of the petitioners after giving them an opportunity to adduce evidence and produce documents, and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.G.V.L.N.MURTHY.

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following:

O R D E R:

This writ petition has been filed seeking a writ of certiorari calling for the records relating to Government Memo No.393/F1/89-5, Social Welfare Department, dated 14.6.1993, and the order of the Special Deputy Collector, Tribal Welfare, Eluru, West Godavari District in S.R.No.75/82, dated 6.5.1986, and the order of the Agent to Government-Cum-District Collector, West Godavari District, Eluru in S.R.A.No.19/86, dated 23-1-1989, and set them aside.

The petitioner states that they are residents of Akkampet Marlagudem post, Jangareddygudem Mandal, West Godavari District. They are in possession and occupation of the lands in Sy.No.481, 48/2 and 49/2 admeasuring Ac.3-62 cents situated in Seetharamanagaram, Buttayagudem Revenue Mandal, West Godavari District for the past 60 years, through their predecessors in title. The predecessors of the petitioners acquired the aforesaid land by cleaning jungle growth and cultivated the land since 60 years and also paid the revenue taxes. The petitioners state that they got the land from non-tribal Sri P.Venkata Satya Surya Radhakrishna Murthy, through a registered sale deed dated 12.7.1977, and thus, the whole transaction is

only between non-tribals. The Special Deputy Collector, Tribal Welfare, West Godavari, Eluru enquired into the matter pursuant to the complaint filed by Special Deputy Tahsildar, Tribal Welfare, Eluru in S.R.No.75/1982, and made an order on 6.5.1986 for ejectment of the petitioners holding that the petitioners purchased the schedule land from non tribal Sri P.Venkata Satya Surya Radhakrishna Murthy.

Against the said orders of the Deputy Collector, the petitioners preferred an appeal before second respondent-Agent to Government, West Godavari District at Eluru contending that they came into possession of the schedule land 20 years back by virtue of a sale agreement, though the sale deed was registered on 12.7.1977, and that the possession and enjoyment was not hit by the provisions of A.P. Scheduled Areas Land Transfer Regulation, 1959 as amended by the Regulation 1 of 1970. The schedule land was never held by any tribal at any time. The appellate Court considering the averments rejected the contention raised by the petitioners. The relevant paragraph reads as under: -

> "The Appellant purchased the schedule land from a non-tribal Sri P.Venkata Satyasurya Radhakrishna Murthy on 12.7.1977. The appellant admitted in the lower Court that he purchased the schedule land on 12.7.1977. Hence, the contention of the Appellant that he came into possession of the schedule land prior to the enactment of regulation 1 of 1970 is not correct".

Thus, the appellate Court held that the appellant who is a non-tribal purchased the schedule land from Sri P.Venkata Satyasurya Radhakrishna Murthy under a registered sale deed dated 12.7.1977. This sale transaction took place in between non-tribals after the enactment of Regulation 1 of 1970. Since both the appellant and his vendor are non-tribals, the sale deed dated 12.7.1977 is void, as has been rightly held by the lower Court. Thus, the appellate Court confirmed the order of the lower Court in S.R.No.75/82, dated 6.5.1986.

As per requirement of the provision in the Land Transfer Regulation, 1959, the Government requested the revision petitioners to advice their clients to adduce necessary material/documents before the Government in support of their claim over the scheduled land in question. But as they failed to substantiate their claim over the scheduled land in question, the revision was dismissed.

In view of the above facts and circumstances, I do not see any grounds to interfere with the orders under challenge. The writ petition is merit less. However, at this

stage, the learned counsel for the petitioner contends that the petitioners filed a representation before the authorities, and in the circumstances, this order does not preclude the petitioner to make an application to the authorities as per law, and the same shall be considered, and appropriate orders be passed.

The writ petition is accordingly dismissed. No costs.

Sd/-

ASSISTANT REGISTRAR

//TRUE COPY//

Section Officer

15th July, 2004

Kk/Rar

To

1) The Secretary, Government of Andhra Pradesh, Social

Welfare Department, A.P.Secretariat, Hyderabad

2) The District Collector, West Godavari District, Eluru,

3) Special Deputy Collector, Tribal Welfare, Eluru, West Godavari District.
4) Special Deputy Tahsildar, Tribal Welfare, Eluru, West Godavari. District,

5) 2CCs to G.P for Social Welfare, High Court of A.P.,Hyd.(OUT)

6) 2CD copies